

Town of Frederick Board of Trustees



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AM 2009-039

Consideration of an Ordinance to Amend Land Use Code Article 8 - the Town's Floodplain Regulations

Agenda Date: Town Board Meeting - April 28, 2009

Attachments:

- a. Planning Commission Report-2009-04A
- b. Red-line version of proposed Article 8
- c. "Clean" Version of proposed Article 8
- d. Planning Commission Meeting Minutes, April 21, 2009
- e. Ordinance

Fiscal Note: None noted

Maria Simon
Finance Director

Submitted by: Richard Leffler, P.E. *RL*
Town Engineer

Approved for Presentation: *[Signature]*
Town Administrator

AV Use Anticipated Projector x Laptop

Certification of Board Approval:

Town Clerk

Date

Summary Statement:

The Town of Frederick is a participant in the National Flood Insurance Program (NFIP). Periodically staff with the Colorado Water Conservation Board, who help administer this program for the Federal Emergency Management Agency (FEMA), suggests that the Town update its codes and regulations regarding floodplain development. The proposed ordinance would update Article 8 of the Land Use Code - the Town's floodplain regulations - to be current and compliant with FEMA requirements.

Detail of Issue/Request:

Certain areas of Frederick have historically been located in a FEMA designated 100-yr floodplain. Old Town Frederick was in a floodplain until May 26th, 2005. After the construction of the Tri-Area Regional detention pond at Centennial Park, the old town area was no longer in a 100-yr floodplain. There are currently only a few areas remaining in Frederick that have flooding risks. These areas include the Boulder Creek and Idaho Creek drainageway along the west edge of the Town's planning area, the Godding Hollow drainageway, which is between and parallel to I-25 and Silver Birch Blvd., and the northern reaches of the Tri-Town drainageway. Although it is uncommon for a property owner to propose construction in a floodplain, such requests do occur, and the Town must have a policy for efficiently handling such requests.

The policy and procedure for handling requests for building permits in the floodplain must, generally stated, ensure that life and property are reasonably safe from flooding. As long as the Town takes proactive measures to adhere to this requirement, then the Town will be in compliance with FEMA's rules for participants in the National Flood Insurance Program.

The proposed ordinance will update the Town's floodplain ordinance based on recommendations from the Colorado Water Conservation Board and FEMA. The language of the Land Use code is being updated to make it more clear, and to implement additional flood plain requirements and language that will make Frederick's floodplain ordinance adhere to a higher standard than FEMA's minimum standards. Consequently, it may be possible for purchasers of flood insurance within Frederick to obtain lower flood insurance premiums.

In addition to cleaning up the language of the code to make it more understandable, there are specific provisions in this proposed ordinance that will improve the current code, in staff's opinion. One such provision is the requirement of Compensatory Storage. Compensatory Storage is the idea that if some portion of a floodplain is filled to raise the ground level above the flood elevation, then some other portion of the flood plain must be lowered to ensure that the base flood elevation does not increase as a result of placement of the fill. Another provision that will be improved is that of Repetitive Damage. FEMA's flood insurance provides that up to \$30,000 of additional flood insurance coverage can be obtained towards elevating, floodproofing, demolishing or relocating a structure that has been substantially damaged or repetitively damaged. However, this additional coverage is only available to a repetitively damaged structure within a community that has adopted a definition in its local ordinance that adheres to the language required by FEMA's Increased Cost of Compliance definition. The proposed ordinance includes such language in the definition of "Substantial Damage." A third change is the addition of the definitions of Substantial Improvement and Cumulative Substantial Improvement. The purpose of these definitions is to have a provision by which incremental improvements to a property, each of which does not qualify a property owner for lowered flood insurance premiums, could, when taken together as an aggregation of incremental improvements, qualify a property owner for lowered insurance premiums. A fourth definition that has been added is that of Critical Facilities. The purpose of this definition is to ensure hazardous chemicals are not stored in floodplains, and that facilities that provide essential public services, such as hospitals, police stations, and fire stations, are not built in a floodplain. In addition, the ordinance also requires that structures be raised or flood proofed to at least two feet above the base flood elevation; this minimum amount of two feet is based on recommendations from FEMA staff and will help to decrease flood insurance premiums.

The improvements to the Town's existing floodplain ordinance that are described above will either directly reduce flood insurance premiums, or will indirectly reduce premiums through the

Community Rating System (CRS). The CRS is a FEMA program that provides discounts for communities that take measures that are beyond the minimum requirements of the NFIP.

Legal/Political Considerations:

Staff has discussed the adoption of this floodplain ordinance with legal counsel and has been advised that all provisions of the proposed ordinance are legally satisfactory. Notice for the proposed amendments was properly published according to the requirements of Section 4.5 of the Frederick Land Use Code.

Alternatives/Options:

An alternative to adopting this floodplain ordinance would be to not adopt the ordinance. It is recommended that the proposed ordinance be adopted because it will clarify the process of developing property in a floodplain, and it will increase Frederick's compliance with recommended practices that are above and beyond the minimum standards set by FEMA for participation in the National Flood Insurance Program.

Financial Considerations:

For the Town, there are no financial ramifications of adopting the proposed ordinance. However, for the citizens of Frederick who purchase flood insurance, there could be a benefit of reduced premiums for flood insurance coverage as a result of adopting the proposed ordinance.

Staff Recommendation:

Staff recommends that the Board adopt the proposed ordinance.